

Heron Lake Watershed District (HLWD)
Regular Meeting
December 16, 2020

1. Call to Order

Wayne Rasche called the meeting of the Board of Managers of the HLWD (Board) to order at 1:00 p.m. Pursuant to Minnesota Statutes § 13D.021, subdivision 1, due to the COVID-19 pandemic, the HLWD meeting was held by teleconference. All attendees participated by Microsoft Teams.

Managers present: Harvey Kruger, Wayne Rasche, Mark Bartosh, Bruce Leinen, and Cory Reith
Staff: Catherine Wegehaupt, Davis Harder, and Jan Voit

Others: Jacob Rischmiller, ISG; Kevin Stevens, Cottonwood County; Matt Widboom, Nobles County; Doug Goodrich, Board of Water and Soil Resources; Jean Christoffels, Murray County; Kelly Rasche and Jim Eigenberg, Jackson County; and Roger Hartman

2. Agenda

Harvey Kruger made a motion to approve the agenda. Bruce Leinen seconded this. The roll call vote was taken. Motion carried unanimously.

3. Minutes

Harvey Kruger made a motion to approve the minutes of the November 18 regular meeting. Wayne Rasche seconded this. The roll call vote was taken. Motion carried unanimously.

4. Treasurer's Report

Jan Voit presented the treasurer's report and bills payable. The Judicial Ditch (JD) 3 expenses are about \$17,000 short of the bond. Bruce Sellers, Chuck Brandel, and Currie State Bank have been contacted. If a bond increase is necessary, the line of credit will also need to be increased. Payroll costs include those for Davis Harder. This information is reviewed by the HLWD Treasurer each pay period. Reimbursement requests are submitted for Heron Lake Area Conservation Partnership (HLACP) costs on a monthly basis. Mark Bartosh made a motion to approve the treasurer's report and pay the bills. Cory Reith seconded this. The roll call vote was taken. Motion carried unanimously.

5. JD 36 Viewing

Jan Voit explained that she contacted Bryan Murphy on November 18 regarding the viewing costs for JD 36. He explained that they have a lot of buried costs that could not be recovered if they would do the viewing for less than \$18,750. There wasn't anything he could do to change the price. He did say that they are ready to go and could have this done in time to have the hearing in conjunction with the JD 3 final hearing. He understood the Board's concern about costs and assured her there would be no hard feelings or strain on our working relationship if another avenue was taken. Louis Smith was contacted regarding the viewing situation. He informed her that since the viewing work has not begun and no contract has been signed, he saw no reason why the Board could not withdraw the H2Over Viewers appointments and substitute other viewers, especially given the confusion over the improvement that was stated on their oaths. A quote was requested from Dan Ruby. On November 24, Dan Ruby confirmed that the quote for JD 36 viewing included both the improvement and the redetermination of benefits. He did inform her that they would not do the field work until spring and that their timeline would be dependent upon COVID restrictions.

She informed the Board, that should they decide to make a change, a motion to rescind the August 19, 2020 Order Appointing Viewers that appointed Bryan Murphy, Larry Murphy, and Shantel Hecht as viewers would be needed. An Order Appointing Viewers Dan Ruby, Tom Peterson, Gary Ewert, and alternate Chuck Bowers would also be necessary.

Wayne Rasche made a motion to rescind the August 19, 2020 Order Appointing Viewers that appointed Bryan Murphy, Larry Murphy, and Shantel Hecht as viewers for JD 36. Harvey Kruger seconded this. He also said that this decision would be good for the landowners on the system. The roll call vote was taken. Motion carried unanimously.

Wayne Rasche made a motion to approve the Order Appointing Viewers for the Improvement of JD 36. Cory Reith seconded this. The roll call vote was taken. Motion carried unanimously. A copy of the order is included with the minutes and incorporated by reference.

6. Project 2

Jan Voit informed the Board that the viewers filed their report on November 20. The viewers, ISG, and Louis Smith were contacted regarding potential dates for the landowner meeting and the hearing. The landowner meeting will be held on January 11. The hearing will be held on January 27. Both meetings will have the option of attending in person, by Microsoft Teams, or by phone dependent upon COVID restrictions. An Order and Notice of Public Hearing on Updated Redetermination of Benefits is needed.

Harvey Kruger made a motion to approve the Order and Notice of Public Hearing on Updated Redetermination of Benefits. Bruce Leinen seconded this. The roll call vote was taken. Motion carried unanimously. A copy of the order is included with the minutes and incorporated by reference.

7. County Ditch (CD) 3 Driveway Crossing

Jacob Rischmiller reported that the proposed change order was for the driveway just east of the storage pond. After the crossing was installed and the final grading was done, it was brought to ISG's attention by Donnie Obermoller, the Damms, and Jordan Horst that they would like the crossing to be wider. The original structure was a 17' bridge. These landowners were under the impression that the structure was going to be widened as part of the project. It was not ISG's intent to widen the structure when the project was in the design phase or when the project was bid. ISG contacted Larson Contracting Central LLC (Larson Contracting) and Dirt Merchant, Inc. (DMI) to determine their interest in this project. DMI was not interested due to their timeline for finalizing their bid package. Larson Contracting came back with their proposal of \$34,348. Most of the cost is for renting a crane for construction. If ISG would have known about this at the design phase, it would have been designed accordingly and there wouldn't be the need for a potential change order. ISG's recommendation was to approve the change order and have Larson Contracting do the work as soon as they can. Construction is dependent upon when the crane can be rented and pipe delivered. They are hoping to be done by early January.

Jacob Rischmiller informed the Board that for the total CD 3 project, the costs are running on budget. The costs for the project are about five percent under the 2019 bid prices. Those project costs include this change order.

Wayne Rasche asked if the Damms or other landowners asked to have a wider driveway before the bids were let. Jacob Rischmiller said that they did not bring this up to ISG until two months ago.

Jacob Rischmiller stated that the original usable lip was 17'6" or 17'8". Wayne Rasche commented that even if nothing was allotted for making it wider, the crossing should be put back to the original usable top width. Jacob Rischmiller responded that is what the width is now. Part of the landowners' concerns is that coming in with a tractor trailer will go off the edge and into the ditch. The corners have been rounded, but the landowners would like more roundness so they can get in easier if the driveway is widened.

Wayne Rasche was at the site on December 15. He found a spot in the driveway that measured 14'2". That is 3'6" narrower than the previous driveway. It needs to be widened to be the same as the original width. Jacob Rischmiller stated that Anthony Oldfather had measured when it was installed and the width was 17'. Where it is being measured might be the difference. Wayne Rasche responded that it has to be measured at the narrowest point because that is all that is usable. If it was originally 17'6" or 17'8", it should be at least that wide. Jacob Rischmiller said that is correct. He thought that was what was there, but perhaps some of it sloughed already.

Wayne Rasche said that there is such a steep drop off on both sides, he didn't know how the driveway could be considered usable. If nearly three feet have sloughed, why is that anywhere near the way it was supposed to be built? Jacob Rischmiller responded if that is the case, that isn't the way it was supposed to be built. Part of that is the slopes and the need for another barrel to be installed to extend it.

Wayne Rasche stated that he understood that in order to make it wider than it was originally, it would have to be wider at the bottom. He asked if it was designed to meet the original size or if it was improperly constructed. Jacob Rischmiller explained that it was designed to be 17' on top. Part of the construction was the side slopes, the contractor couldn't get to where we had designed.

Mark Bartosh said that he was at the site on December 14. He didn't know where Wayne measured. It may have been 17'6", but with the depth of the ditch and the settling of the sides, the rock has fallen away. It is too dangerous to bring a tractor or combine through there, much less a semi. With the current design, settling, and sloughing of material, a crown has been created. Why wasn't the extra barrel put in there at the start to account for the sloughing and settling? Jacob Rischmiller responded that they had accounted for a little bit of give, but didn't expect three feet. Mark Bartosh asked about the depth to the bottom of the ditch. Jacob Rischmiller responded that it is 27' to 28'.

Wayne Rasche stated that access should be the same as it was before construction. Somewhere between the engineering and the construction the numbers aren't adding up and someone needs to be accountable, but not the ditch owners. He asked why at least one more barrel was not installed originally. Jacob Rischmiller explained that they have had success in the past with how the side slopes are installed to make the same width. The material on site plays a large factor in that. It is eroding more than anticipated. Wayne Rasche asked who would be at fault. Jacob Rischmiller explained that it would be the natural system itself and the ground.

Wayne Rasche said that when he spoke with the Damms, they were anticipating a wider driveway. At a minimum the driveway should be the same width as before the project or wider. Either the design or construction was wrong. Something needs to be done to make it the same usable width and include rounded corners. Jacob Rischmiller responded that when he spoke with the Damms, their request was to have a driveway that was wider, above and beyond what was originally there. They didn't ask for this until after the fact. The request for the driveway to be above and beyond what was originally there is the reason ISG included a larger barrel in the proposed change order, to give more width to them. He could provide a quote for the cost that would include a smaller section of pipe. Mark Bartosh said that the cost of the pipe isn't the big expense, it is the cost of the crane. Jacob Rischmiller explained that the price of renting the crane was rolled into the linear footage cost in the proposal.

Harvey Kruger said that he knows the situation and has talked with the landowners. He wondered if this has to be done within a month. There will be other construction projects coming up where a crane is needed. Could the problem be fixed then? Jacob Rischmiller said that is a possibility. If it could be done before spring, there wouldn't be a downside to prolonging the construction. He also

said that DMI has a larger excavator. He could ask them if they could use that, do this work without renting additional equipment, and complete it before spring planting.

Wayne Rasche reiterated that the driveway should be put back to usable width. Figuring that out is between the contractors and the engineers. If landowners want a wider driveway, that is a different matter. The driveway needs to be at the original width before a decision is made. Jacob Rischmiller explained that if the landowners want it widened, now would be the time to do it. Wayne Rasche responded that he would agree with that, but something needs to be done about the mistake on the construction or engineering first. Anything above the original width would have to be charged to the system through a change order. Jacob Rischmiller thought something could be worked out.

Wayne Rasche asked when the construction was supposed to be completed. Jacob Rischmiller stated that DMI is working on bid package 4 and should be done by the end of the week. They have about 500' of tile to install. Wayne Rasche asked that if DMI was the contractor, would they have an excavator on site that could be used to install the larger culvert. Jacob Rischmiller said that he didn't know if the specific excavator was on site, but they do have an excavator that is large enough. Larson Contracting has completed the pond. The private tile is installed. They have some fine grading and reshaping that is warranty work that will be completed this week or next.

Wayne Rasche said that if neither crew has an excavator big enough to do the job now, if it doesn't get done until January or February, it won't make that much difference. Jacob Rischmiller responded that the only difference would be the contractor having to work with frost. Right now there is six inches of frost. Now is an easier time to construct. The deeper the frost drives, the harder it will be.

Mark Bartosh asked how much ISG was willing to pay to compensate for the errors made. Jacob Rischmiller stated that he could not answer that, but believed they could work something out. Wayne Rasche said that the Board needs that number to know how to move forward. He didn't know if this could wait until January because the frost might be too deep. The Board may need to have a special meeting. Jacob Rischmiller responded that he could have the number by the end of the week.

Discussion was held regarding the possibility of a special meeting. If the meeting is virtual, having the meeting close to the holidays may be possible. Jacob Rischmiller said that he could get the figure by the end of the day today or first thing in the morning.

Harvey Kruger asked if the additional width would satisfy all the landowners. He asked if those landowners offered to pay any of it. Wayne Rasche said that right now the widest spot is 14'2". By adding an eight foot section, the width would be 22'. Installing an eight foot section would be the minimum in order to have a usable top. What is there now is too narrow and has sloughed. Installing the eight foot section would be needed just to get it to what was the usable top prior to construction.

Wayne Rasche said that the Board could hold a special meeting once they have the revised figures from ISG. Discussion was held regarding possible dates for holding a special meeting. Jacob Rischmiller stated that he could make some calls and then rejoin the meeting.

Wayne Rasche asked that if there isn't a time constraint, could the other firm do it at a cheaper price. Jacob Rischmiller said that he would contact DMI to see if they are interested. He would not be able to provide the cost information today. Jacob Rischmiller left the meeting.

8. Reports

District Administrator

Jan Voit reported on the Minnesota Association of Watershed Administrators (MAWA) meeting, and the Des Moines Watershed 1W1P, Clean Water Partnership loan program, JD 36, QuickBooks, Minnesota Association of Watershed Districts (MAWD) annual convention, Small Watersheds Focus Grant, HLWD Project 2, JD 3, Toe Wildlife Management Area grant, Des Moines River One Watershed One Plan, Common Ground Summit, MAWA/MAWD Events and Awards Committee meeting, JD 19, HLWD Advisory Committee, Outstanding Watershed Administrator award, Heron Lake Area Conservation Partnership, and the South Heron Lake TMDL Implementation Project grants.

Watershed Technician

Catherine Wegehaupt returned to work on December 14. She gave an update on the Minnesota Department of Agriculture grant. She will be working on annual and final reports.

Conservation Technician

Davis Harder provided an overview of his efforts with the HLACP to focus on outreach and talk with landowners. The first outreach mailing was sent to approximately 100 landowners, targeting those adjacent to Wildlife Management Areas and Waterfowl Production Areas. He has held several meetings with our partners to ensure good communication, information exchange, and promoting programs. The first quarterly partner meeting was held on December 14. The first easement application was received on December 7. The first response from the December 10 outreach mailing was received on December 14. He will continue to lay the ground work for making sure landowners are aware of available conservation opportunities.

9. **CD 3 Driveway Crossing Continued**

Jacob Rischmiller joined the meeting. He spoke with Chuck Brandel. ISG will contribute \$7,500. He spoke with DMI. They are interested in doing this project if the timeline that extends completion to before spring planting.

Mark Bartosh asked if ISG thought DMI would be significantly cheaper. Jacob Rischmiller responded that he thought that would be the case. In speaking with the DMI foreman, they have a big enough excavator and could do the work at a cheaper price.

Wayne Rasche asked about implications for spring work. In a normal year, how soon can they work before the frost goes out and complete construction so the driveway is useable when fields are fit? Jacob Rischmiller thought they would be able to get this done in a timely manner. Knowing DMI, they have one crew that doesn't want to take winter off. That may be to our advantage and that crew could do this work.

Mark Bartosh said that it would be good if DMI could do the construction this winter. If there is significant snow or rain and a lot of water moving through the structure, would that create a problem? Jacob Rischmiller explained that rain or snowfall wouldn't create a problem for fixing the driveway. It would create a headache for the contractor to temporarily plug the ditch, use the temporary storage that has been created, let the water backup into the pond so the driveway could be installed, and then let the water flow again.

Wayne Rasche stated that if there is a large amount of snow, there wouldn't be a frost issue. Jacob Rischmiller concurred. Jacob Rischmiller said that his recommendation would be for him to contact DMI, get a quote, send the information to the HLWD, and then reconvene. DMI did not give a timeline for submitting the quote.

Discussion was held regarding the possibility of holding a special meeting. Getting the information from DMI will dictate when a meeting could be held. If the information is available by the end of

December and the weather is good, holding a special meeting would be appropriate. If it is after the first week of January, the subject could be addressed at the monthly meeting.

Bruce Leinen asked what will guarantee that this won't slough off in two or three years and get narrower? Wayne Rasche responded that there is red rock at the bottom that will help some. If they add eight feet, it would be about 22' straight up and down. It could then hold 20' without sloughing too much at that point. He didn't know what ISG would do if the Board decided that no additional culverts could be installed. He was not sure that they would get it back to the original width without adding the culvert. He didn't think rock could be stacked that high.

Cory Reith asked if there was an industry standard for grade for a slope like this. Jacob Rischmiller explained that there is not an industry standard for culvert crossings. With a brand new crossing, the slope is 3:1. When a repair is done, the original slope is maintained. If the original slope was 1:1, that is what is put back.

Wayne Rasche asked about the bottom width of the ditch. Jacob Rischmiller said the full bottom width is 28' from culvert end to culvert end. Wayne Rasche asked how high it is from the bottom of the culvert to the top of the driveway. Jacob Rischmiller responded it is six feet from the top of the culvert where it starts to slope back. Wayne Rasche asked how high the culvert is. Jacob Rischmiller stated that it is six and a half feet.

Mark Bartosh asked about the slope of the ditch bank. Jacob Rischmiller responded that the ditch bank slope is 1.5:1. They thought this material would be at what the ditch bank slopes are. Wayne Rasche asked if it was 28' on the bottom or 28' on the top of the culvert. Jacob Rischmiller said that it was 28' on top. The culverts both have aprons which accounts for the extra footage for sloping after the top of the culvert. Wayne Rasche responded that having 17'5" on top of 28' is still pretty steep slopes.

Wayne Rasche asked Jacob Rischmiller to contact DMI to get a quote. The Board will need to know the minimum width of the driveway and the minimum width if the eight foot section is added. Jacob Rischmiller said that he would provide that information. Harvey Kruger stated that by adding eight feet, the top of the driveway would be at least 20'. Wayne Rasche responded that it should be. But that means it would have to be stacked about as straight up and down as it is now. Going eight feet wider on the bottom and almost six feet wider on the top, it will still be awfully straight up and down to have 20 usable feet.

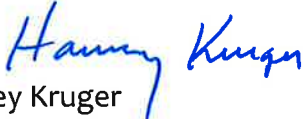
Mark Bartosh asked about the construction process for stabilization during installation. Jacob Rischmiller explained that a compactor is used. Compaction of 95% is required. Wayne Rasche said that after that, big red rock are placed to keep the soil from washing or settling too much.

Jacob Rischmiller will provide the information as soon as it is available. Jan Voit will send the information to the Board as soon as she receives it. Depending on when the information is submitted, a special meeting will be held in December or the item will be addressed in January.

Bruce Leinen and Wayne Rasche congratulated Jan Voit for the Outstanding Watershed Administrator Award. She thanked them and acknowledged that it was nice to be recognized for the years of service and the work that has been accomplished.

10. Adjournment

The meeting adjourned at 2:22 p.m.


Harvey Kruger
Secretary